



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/375,901 08/17/99 KNUDSON

E UV-100

EXAMINER

WM01/0410

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1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020-1104

BUI, K

ART UNIT

PAPER NUMBER

2611

DATE MAILED:

04/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



UNITED STATES DEPARTMENT OF COMMERCE
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EXAMINER

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INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

(1) Matthew Burn (3) Andrew Faile
(2) Krista Bui (4) _____

Date of Interview 4/4/01

Type: ☒ Telephonic ☐ Televideo Conference ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No If yes, brief description: _____

Agreement ☒ was reached. ☐ was not reached.

Claim(s) discussed: 1

Identification of prior art discussed: Claim 1 was discussed over "Latoric et al." and Williams et al.

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: _____

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

Examiner Note: You must sign this form unless it is an attachment to another form.

Andrew Faile

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Manual of Patent Examining Procedure, Section 713.04 Substance of Interview must Be Made of Record

Except as otherwise provided, a complete written statement as to the substance of any face-to-face or telephone interview with regard to an application must be made of record in the application, whether or not an agreement with the examiner was reached at the interview.

§1.133 Interviews

(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111 and 1.135. (35 U.S.C. 132)

§ 1.2. Business to be transacted in writing. All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete a two-sheet carbon interleaf Interview Summary Form for each interview held after January 1, 1978 where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks in neat handwritten form using a ball point pen. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, pointing out typographical errors or unreadable script in Office actions or the like, or resulting in an examiner's amendment that fully sets forth the agreement are excluded from the interview recordation procedures below.

The Interview Summary Form shall be given an appropriate paper number, placed in the right hand portion of the file, and listed on the "Contents" list on the file wrapper. In a personal interview, the duplicate copy of the Form is removed and given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephonic interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication.

The Form provides for recordation of the following information:

- Application Number of the application
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (personal or telephonic)
- Name of participant(s) (applicant, attorney or agent, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the claims discussed
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). (Agreements as to allowability are tentative and do not restrict further action by the examiner to the contrary.)
- The signature of the examiner who conducted the interview
- Names of other Patent and Trademark Office personnel present.

The Form also contains a statement reminding the applicant of his responsibility to record the substance of the interview.

It is desirable that the examiner orally remind the applicant of his obligation to record the substance of the interview in each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check a box at the bottom of the Form informing the applicant that he need not supplement the Form by submitting a separate record of the substance of the interview.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview:

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner. The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he feels were or might be persuasive to the examiner,
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete or accurate, the examiner will give the applicant one month from the date of the notifying letter to complete the reply and thereby avoid abandonment of the application (37 CFR 1.135(c)).

Examiner to Check for Accuracy

Applicant's summary of what took place at the interview should be carefully checked to determine the accuracy of any argument or statement attributed to the examiner during the interview. If there is an inaccuracy and it bears directly on the question of patentability, it should be pointed out in the next Office letter. If the claims are allowable for other reasons of record, the examiner should send a letter setting forth his or her version of the statement attributed to him. If the record is complete and accurate, the examiner should place the indication "Interview record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 12/28/2000 have been fully considered but they are not persuasive.

Applicant basically argues about the "preferred media type", and disagrees with the Examiner's interpretation about Williams' meaning of "media" (US patent 5,977,964), and stresses that Applicant's "solution for the problem of searching for programming among different media types, in which each media type has distinctive characteristics discernible at the user level" by revealing in the specification at pages 12 to 13 that the "visual displays and the sound levels" as well as "the degree of user attention/interaction that is distinctive for different types of media" equate to the claimed "media type" (which they are not addressed in the claim language). The Examiner disagrees with the Applicant's interpretation of the Williams' reference (as pointed out on the last paragraph of page 3 in the Reply to Final Office Action) and the arguments above with the following supportive rationale.

First of all, the word "media" (by the definition of the Newton's Telecom Dictionary) is meant to be "the conduit or link that carries transmission. Transport media include coaxial cable, copper wire, radio waves, wave-guide and fiber." By the broad definition, "media" is directed to the transport medium, i.e., cable or satellite or RFs, not necessarily about "the distinctive characteristics at the user level" as the Applicant narrowly defines it. By using the Applicant's

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“own lexicographer” (which is fine to do so), the Applicant needs to be more specific and clarify their intentions in the claim language instead.

Even so, the Applicant’s issue for the “solution for the problem of searching for programming among different media types, in which each media type has distinctive characteristics discernible at the user level” by revealing in the specification at pages 12 to 13 about the “visual displays and the sound levels” as well as “the degree of user attention/interaction that is distinctive for different types of media” are disclosed by Williams as Williams discloses a method and system for automatically configuring a system based on a user’s monitor system interaction (corresponding to user data profile stored in a user profile database 800) wherein the user preferred media types and preferred settings, i.e., types of Internet sites, software applications, listening volumes and etc., are automatically set up and sorted out as a separate sort criterion for him on the preferred media list (Williams, Fig. 8), as well as the genre of the programming available during the displayed time period (Fig. 8) and from different medium, i.e., cable, satellite or audio sources (Williams, Fig. 9; see col. 5/line 42-col. 6/line 50 and col. 7/lines 30-55 for more details). Furthermore, Applicant’s attention is directed to would take a closer look at col.5/line 66 to col. 6/line 24 of Williams ‘964, as Williams clearly reveals the “visual displays” and “sound levels” as the user enjoys the viewing and prefers the listening volumes by setting at the user level his customized visual settings, for example, on a specific sports channel 2 with different setting of volumes (moderate volume/sound levels), the “window” display with supplemental programming, with no blocking required and so on. In addition, Williams further

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discloses sound modes options in surround sound types including Dolby Digital, Dolby Surround, Dolby Pro-Logic, Dolby 3 Stereo as well as sound modes as concert hall, rock concert, movie theater, stereophonic, monophonic, etc (col. 6/lines 50-67).

Thus, Williams clearly discloses or suggests the concept of “supplying information on the media types that are associated with each of the channels” with regard to the characteristics of the particular channel at the user level as well as “designating a preferred media type which reflects the user’s interests” and “providing the user with the option of channel selection constrained to a subset of channels consisting of favorite channels of the preferred media type by filtering the channels using the favorite channels and the preferred media types as selection criteria to produce the subset of the channels” (see the previous Final Office Action) as cited on claims 1, 11, 19 and 28.

Therefore, the Examiner disagrees with the Applicant’s arguments and stands with the disclosures and teachings of LaJoie and Williams as previously stated in the Final Office Action.

Conclusion

2. **Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-6306, (for formal communications intended for entry)

Or:

(703) 308-5399, (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.



ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Krista Bui
Art Unit 2611
January 18, 2001